

# **EXHIBIT 3**

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From: Chabot, Ryan <Ryan.Chabot@wilmerhale.com>  
Sent: Friday, September 1, 2023 4:48 AM  
To: QE Facebook Antitrust; facebook-consumer-leads@lists.locklaw.com; FB Advertiser Counsel  
Cc: WH Facebook Private Antitrust Litigation Service List  
Subject: Klein v. Meta Platforms / Daubert Motions

[EXTERNAL EMAIL from [ryan.chabot@wilmerhale.com](mailto:ryan.chabot@wilmerhale.com)]

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Counsel,

Plaintiffs' class certification expert reports include a **number of opinions that relate to issues that are squarely merits issues and not class certification (e.g., market definition)**. We do not believe the Court expects—or would want to have to address—*Daubert* motions on those issues at this stage, rather than at the merits stage. Please confirm that this is your understanding as well and that neither side would argue that merits-related *Daubert* challenges would be waived if they are not brought now. If Plaintiffs have a different view, we intend to seek clarification from the Court that *Daubert* challenges should be limited to class certification at this stage and that *Daubert* challenges relating to the merits phase should be brought at the merits stage, even to the extent the experts have offered those merits opinions in the class certification reports. Please let us know your position by COB on Tuesday, September 5.

Thanks,  
Ryan

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